

Sentence Review Division
301 S. Park, Suite 328
P.O. Box 203005
Helena, MT 59620-3005
Phone: (406) 841-2976
Email: shellysmith@mt.gov

SENTENCE REVIEW DIVISION
OF THE SUPREME COURT
STATE OF MONTANA

AUG 14 2020

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,)	Cause No. DC-18-353
)	
Plaintiff,)	Cascade County District Court
)	
-vs-)	Montana Eighth Judicial District
)	
ANTHONY DON NICHOLS,)	DECISION
)	
Defendant.)	

On March 27, 2019, the Defendant was sentenced as follows:

Count I: A commitment to the Montana State Prison for a term of Five (5) years for the offense of **Strangulation of a Partner/Family Member, a Felony**;

Count II: A commitment to the Montana State Prison for a term of ten (10) years at the Montana State Prison, with five (5) years suspended, for the offense of **Tampering with Witnesses or Informants, a Felony**, to run consecutively to Count I;

Count III: Six (6) months to the Cascade County Detention Center, with all time suspended, for the offense of **Violation of an Order of Protection (1st Offense), a Misdemeanor**, to run consecutively to all other Counts, and a \$250 fine;

Count IV: Six (6) months to the Cascade County Detention Center, with all time suspended, for the offense of **Violation of an Order of Protection (2nd Offense), a Misdemeanor**, to run consecutively to all other Counts, and a \$350 fine;

Count V: A commitment to the Montana State Prison for a term of two (2) years for the offense of **Violation of an Order of Protection (3rd Offense), a Felony**, to run consecutively to Counts I and II, and a \$500 fine;

Count VII: A commitment to the Montana State Prison for a term of ten (10) years at the Montana State Prison, with all time suspended, for the offense of **Tampering with Witnesses or**

Informants, a Felony, to run consecutively to Counts I, II, and V.

The Defendant was given credit for time served of 294 days.

On August 6, 2020, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant appeared by teleconference from the Crossroads Correctional Facility and was represented by Stephanie DeBoer, Defense Counsel, who appeared telephonically. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

It is the unanimous finding of the Division that the sentence imposed in the District Court is clearly excessive.

ORDER

The Judgment, therefore, is AMENDED as follows:

On Count I: Strangulation of a Partner/Family Member, a Felony, the Defendant is committed to Montana State Prison for a term of Five (5) years;

On Count II: Tampering with Witnesses or Informants, a Felony, the Defendant is committed to the Montana State Prison for a term of ten (10) years, with five (5) years suspended;

On Count III: Violation of an Order of Protection (1st Offense), a Misdemeanor, the Defendant is sentenced to Six (6) months' incarceration, with Six (6) months suspended;

On Count IV: Violation of an Order of Protection (2nd Offense), a Misdemeanor, the Defendant is sentenced to Six (6) months' incarceration, with Six (6) months suspended, and a \$350 fine;

On Count VII: Tampering with Witnesses or Informants, a Felony, the Defendant is committed to the Montana State Prison for a term of Ten (10) years, with Ten (10) years suspended;

The Sentences on Counts I, II, III, IV, and VII shall run concurrently.

On Count V: Violation of an Order of Protection (3rd Offense), a Felony, the Defendant is committed to the Montana State Prison for a term of Two (2) years, with none of that time suspended, and a \$500 fine.

The Sentence on Count V shall run consecutively to the Sentences on Counts I, II, III, IV, and VII.

In all other aspects, the Judgment of the District Court dated March 27, 2019, is affirmed.

Done in open Court the 6th day of August, 2020.

DATED this 14th day of August, 2020.

SENTENCE REVIEW DIVISION

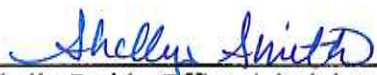
Hon. Dan Wilson, Chairperson

Hon. Luke Berger, Member

Hon. Jessica Fehr, Member

Copies mailed or emailed this 12th of August, 2020, to:

Clerk of District Court
Anthony Don Nichols #3026048, Defendant
Hon. Gregory Pinski
Stephanie DeBoer, Defense Counsel
Ashlee Archer, Esq.
Board of Pardons and Parole
MSP - Records Dept.



Shelly Smith, Office Administrator
Sentence Review Division